

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANIEL W. FAERFERS and KATJA
FAERFERS,

Plaintiffs,

v.

CAVIAR CREATOR, INC., a Nevada
Corporation, individually and
as successor to CAVIAR
CREATOR, INC., an Oregon
Corporation,

Defendants.

2:04-CV-2690-MCE-PAN

MEMORANDUM AND ORDER

CAVIAR CREATOR, INC., a Nevada
Corporation,

Counter Claimant
Cross Complainant,

v.

DANIEL W. FAERFERS, KATJA
FAERFERS, and SINCLAIR WILSON,
an unknown business entity,

Counter Defendants
Cross Defendant.

1 SINCLAIR WILSON, an unknown
business entity,

2 Cross Claimant,

3 v.

4 DANIEL W. FAERFERS, and KATJA
5 FAERFERS,

6 Cross Defendants.

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9 Cross Defendant and Cross Claimant Sinclair Wilson
10 ("Sinclair") has submitted an ex parte application asking the
11 Court to shorten the time for hearing its pending Motion to
12 Dismiss. Through this Motion to Dismiss, Sinclair desires to
13 voluntarily dismiss its Cross Complaint against Daniel W.
14 Faerfers and Katja E. Faerfers ("Faerfers") pursuant to Federal
15 Rule of Civil Procedure 41(a)(2). Sinclair Wilson has also filed
16 a Declaration setting forth the reasons it is seeking to have its
17 Motion to Dismiss heard on an expedited basis. For the reasons
18 set forth below, Sinclair's Application to Shorten Time is
19 granted.
20

21 **BACKGROUND**
22

23 This action arises out of a settlement agreement
24 ("Agreement") entered into by the Parties that was intended to
25 settle a previously filed lawsuit. All Parties vigorously
26 maintain that the opposing Parties have breached that Agreement
27 which has given rise to this action.
28

1 The Faerfers initially filed this action against Caviar
2 alleging breach of contract, fraud and seeking declaratory
3 relief. Caviar counter-claimed against the Faerfers likewise
4 alleging breach of contract and seeking declaratory relief. In
5 that same responsive pleading, Caviar cross-claimed against
6 Sinclair. Thereafter, Sinclair answered Caviar's cross-claim
7 and, itself, cross-claimed against the Faerfers. Sinclair has
8 since settled its dispute with Caviar and seeks to voluntarily
9 dismiss its cross-claim against the Faerfers without prejudice.

10 Sinclair sought a stipulation to its Motion to Dismiss from
11 the Faerfers but were not successful. Sinclair's Motion to
12 Dismiss is scheduled to be heard on April 17, 2006, however, a
13 settlement conference among the Parties is set for April 13,
14 2006. Consequently, Sinclair is seeking an order to shorten time
15 such that the Motion to Dismiss can be heard before the
16 settlement conference. Sinclair has demonstrated that shortening
17 time on its Motion to Dismiss will serve judicial economy and
18 promote settlement. Accordingly, the Court grants Sinclair's
19 application to shorten time.

20 Having found good cause to shorten time in this matter, the
21 Court establishes the following schedule:

22 1. Opposition to Sinclair's Motion to Dismiss is due no
23 later than 3:00 P.M. on Thursday, March 30, 2006.

24 2. No reply shall be permitted.

25 3. Oral argument shall be scheduled for April 3, 2006, at
26 9 A.M. in Courtroom 3.

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CONCLUSION

For the reasons set forth above, Sinclair's application to shorten time on its Motion to Dismiss is GRANTED and the Parties shall adhere to the foregoing schedule.

IT IS SO ORDERED.

DATED: March 27, 2006

A handwritten signature in blue ink, appearing to read "Morrison C. England, Jr.", is written over a horizontal line.

MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE